D.B. CIVIL WRIT PETITION NO.1060/2007
The UOI & Ors. Vs. Shri Y.V. Jain & Anr.

Date : 14.5.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. V.K. Mathur for the petitioner.
Mr. Mahesh Bora for the respondents.

We have heard learned counsel for the parties.

This petition is directed agaisnt the order of Central Administrative Tribunal dated 10.11.2006 by which the original application No.110/2005 preferred by the respondent Shri Y.V. Jain had been allowed and the order of suspension dated 14.12.2004 was quashed on the ground that earlier suspension in continuation of which order was passed came to an end and no suspension order was in force until passing the order from 1.12.2004 to 14.12.2004, therefore, the order could not have been passed in continuance thereof.

Shorn of technicalities there is no dispute, that even if no order is passed before expiry of period

prescribed under the Central Classification (Control and Appeal) Rules, 1965 and the suspension order would lapse a fresh order can always be made and there is no prohibition against passing of the fresh order thereafter.

It is also not in dispute that the respondent had been suspended pending criminal trial against him under Prevention of Corruption Act and when the impugned order of suspension dated 14.12.2004 was made, it was still pending. Hence, the condition for continued suspension or passing fresh order of suspension existed. Now the incumbent has been convicted also.

In view thereof, even if the order dated 14.12.2004 is considered to be a fresh order of suspension, the suspension order which was ordered to be continued until 30th May, 2004 could not have been set aside by the Tribunal, that is apparent from the undisputed facts itself. Therefore, the order of the Tribunal cannot be sustained.

Accordingly, the writ petition is allowed. The

order of the Tribunal is set aside. No order as to costs.

[BHANWAROO KHAN], J. [RAJESH BALIA], J.

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